

HOUSE BILL 4182

By Richardson

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 202; Title 68, Chapter 211 and Title 68, Chapter 212, relative to waste.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The solid waste disposal control board shall compare the criteria for determining if a substance is a hazardous waste in other states to the criteria established by the board for Tennessee and shall assess the adoption of the most stringent criteria in this state. The board shall also reevaluate the substances currently allowed to be processed or disposed of in this state applying the most current scientific findings concerning the short and long-term effects of processing and disposal of such substances. The board shall prepare and submit a report of its findings and recommendations to the governor and the general assembly prior to February 1, 2009. The board shall also publish this report on its website and make copies available to the public upon request.

SECTION 2. Tennessee Code Annotated, Section 68-211-106(a), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) Any permit issued by the department to a facility or site shall enumerate the types of waste that the facility or site is prohibited from receiving for disposal or processing.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 211, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 68-211-1__.

The board shall establish a schedule for the frequent and thorough monitoring of air, water, and soil at various locations within a five-mile radius of every solid waste processing facility and disposal facility or site within the state. The monitoring shall be

conducted by the department and at least once annually by an independent testing entity. The cost of monitoring by the department shall be reimbursed by the person named on the facility or site registration as the person operating or maintaining the facility or site.

SECTION 4. Tennessee Code Annotated, Title 68, Chapter 212, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 68-212-1__.

The board shall establish a schedule for the frequent and thorough monitoring of air, water, and soil at various locations within a five-mile radius of every commercial facility and landfill disposal facility or site within the state. The monitoring shall be conducted by the department and at least once annually by an independent testing entity. The cost of monitoring by the department shall be included in the fee imposed pursuant to §§ 68-212-107 and 68-212-110.

SECTION 5. Tennessee Code Annotated, Title 68, Chapter 211, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 68-211-1__.

Every solid waste processing facility and disposal facility or site within the state shall weigh any carrier of solid waste entering such facility prior to the unloading of any waste at the facility to determine the carrier's compliance with applicable state and federal laws relative to load limits. The facility or site shall notify the appropriate enforcement authority if a violation is detected.

SECTION 6. Tennessee Code Annotated, Section 68-212-107(d)(4), is amended by inserting the following language immediately following the language "hazardous waste treatment, storage, and disposal facilities":

, including that any permit issued by the department to a commercial facility shall enumerate the types of waste that the facility is prohibited from receiving for disposal or processing.

SECTION 7. Tennessee Code Annotated, Section 68-212-107(d)(5), is amended by adding the following language at the end of the subdivision:

Such regulations shall also require that commercial facilities weigh any carrier of hazardous waste entering such facility prior to the unloading of any waste at the facility to determine the carrier's compliance with applicable state and federal laws relative to load limits. The facility shall notify the appropriate enforcement authority if a violation is detected.

SECTION 8. Tennessee Code Annotated, Title 68, Chapter 202, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 68-202-1__.

(a) On or after the effective date of this act, no person shall knowingly accept, process or dispose of radioactive waste material in any landfill located in this state; provided, however, a federal entity may accept, process, or dispose of radioactive waste on-site as permitted under federal law.

(b) For purposes of this section, unless the context otherwise requires:

(1) "Background" means the local level of radioactivity from nature of like materials without enhancement by human activity, plus the local levels of fallout from nuclear weapons testing and the local deposition of fallout from past nuclear weapons testing and the local deposition of fallout from past nuclear accidents located elsewhere in the world, including, but not limited to, the nuclear accident in Chernobyl. "Background" shall be determined as a range of values using statistical test and sampling protocols consistent with those specified in the Multi-

Agency Radiation Survey and Site Investigation Manual developed by the United States department of defense, department of energy, nuclear regulatory commission, and environmental protection agency, published as NUREG-1575, EPA 402-R-97-016, and DOE/EH-0624, and any current or future revisions;

(2) "Facility" means all contiguous land including structures and other appurtenances and improvements on the land used for processing, disposal or land application of solid or hazardous waste by an owner or operator;

(3) "Landfill" means a facility where solid or hazardous wastes are disposed of by burial in excavated pits or trenches or by placement on land and covering with soil or other approved material or a facility where such wastes are processed;

(4) "Naturally occurring radioactive material" means material containing radionuclides that are naturally present in the environment in materials, including, but not limited to, rocks, soil, minerals, natural gas, petroleum, and ground or surface water at concentrations that occur naturally. Naturally occurring radioactive material does not include material containing only radionuclides that are artificially created; byproduct, source, or special nuclear material as defined in this part; or any other material determined by the department to be radioactive material for the purposes of this section;

(5) "On-site" means on a site of generation owned by a federal entity. On-site further means the same or geographically contiguous property which may be divided by a public or private right-of-way. Noncontiguous property owned by federal entity that is connected by a right-of-way which such federal entity controls and to which the public does not have access is also considered on-site property;

(6) "Operator" means the person or persons holding written authorization granted by the commissioner to operate a landfill, or who are otherwise responsible for the operation of a landfill; and

(7) "Radioactive waste material" means solid waste that emits radiation spontaneously. "Radioactive waste material" does not include:

(A) Waste with radioactivity below the background level when measured with the best available technology; or

(B) Naturally occurring radioactive material.

SECTION 9. The department of environment and conservation and the solid waste disposal control board shall promulgate rules to effectuate the purposes of this act. Such rules shall be effective no later than July 1, 2009.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. Section 1 of this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2009.